

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

NOVARTIS PHARMACEUTICALS, CORP. et  
al.,

Plaintiffs,

v.

WOCKHARDT USA LLC and WOCKHARDT  
LIMITED,

Defendants.

NOVARTIS PHARMACEUTICALS, CORP. et  
al.,

Plaintiffs,

v.

SUN PHARMA GLOBAL FZE, et al.,

Defendants.

NOVARTIS PHARMACEUTICALS, CORP. et  
al.,

Plaintiffs,

v.

ACTAVIS LLC, et al.,

Defendants.

Civil Action No. 12-cv-3967  
(SDW) (MCA)

(Consolidated with Civil Action  
Nos. 12-cv-4393, 13-cv-1028, 13-  
cv-2379, and 13-cv-4669)

**ORDER**

October 23, 2013

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NOVARTIS PHARMACEUTICALS, CORP. et  
al.,

Plaintiffs,

v.

ACCORD HEALTHCARE INC., et al.,

Defendants.

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**WIGENTON**, District Judge.

This matter, having come before the Court on the following eight motions: (1) Wockhardt USA LLC and Wockhardt Limited's (collectively "Wockhardt") Motion to Dismiss Count II of Plaintiffs' Novartis Pharmaceuticals Corporation, Novartis Corporation, and Novartis AG ("Plaintiffs") Amended Complaint pursuant to Federal Rule 12(b)(6); (2) Apotex Corp. and Apotex, Inc.'s ("Apotex") Motion to Dismiss pursuant to Federal Rule 12(b)(6); (3) Pharmaceutics International Inc. ("PII"), Emcure Pharmaceuticals USA, Inc., and Emcure Pharmaceuticals, Ltd.'s (collectively "Emcure") Joint Motion to Dismiss Count II of Plaintiff's corrected Amended Complaint pursuant to Federal Rule 12(b)(6); (4) Agila Specialties Private LTD and Strides, Inc.'s (collectively "Strides") Motion to Dismiss Count II of the Amended Complaint pursuant to Federal Rule 12(b)(6); (5) Caraco Pharmaceutical Laboratories, LTD ("Caraco"), Sun Pharma Global SZE, and Sun Pharmaceutical Industries LTD's (collectively "Sun") Motion to Dismiss Count II of the Amended Complaint pursuant to Federal Rule 12(b)(6); (6) ACS Dobfar Info S.A. and Sagent Pharmaceuticals, Inc.'s (collectively "Sagent") Motion to Dismiss Count II of the Amended Complaint pursuant to Federal Rule 12(b)(6); (7) Strides's Additional Motion to Dismiss Count II of the Amended Complaint pursuant to Federal Rule 12(b)(6); and (8) Apotex's Motion for Judicial Notice of the FDA's Response to Plaintiffs'

Citizen Petition, and this Court, having carefully reviewed and considered the submissions and arguments of the parties, for the reasons stated in this Court's Opinion dated October 23, 2013,

**IT IS** on this 23rd day of October, 2013,

**ORDERED** that Wockhardt's Motion to Dismiss [13-cv-1028; Dkt. No. 146] is **DENIED** as moot; and it is further

**ORDERED** that Apotex's Motion to Dismiss [13-cv-1028; Dkt. No. 206] is **GRANTED**, in part, with respect to 35 U.S.C. §§ 271(e)(2) and (b) of Count II, and Count III and **DENIED**, in part, with respect to 35 U.S.C. § 271(c) of Count II; and it is further

**ORDERED** that Emcure and PII's Joint Motion to Dismiss [13-cv-1028; Dkt. No. 208] is **GRANTED**, in part, with respect to 35 U.S.C. §§ 271(e)(2) and (b) of Count II, and **DENIED**, in part, with respect to 35 U.S.C. § 271(c) of Count II; and it is further

**ORDERED** that Strides's Motions to Dismiss [13-cv-1028; Dkt. No. 211 and 12-cv-3967; Dkt. No. 186] are **GRANTED**, in part, with respect to 35 U.S.C. §§ 271(e)(2) and (b) of Count II, and **DENIED**, in part, with respect to 35 U.S.C. § 271(c) of Count II; and it is further

**ORDERED** that Caraco and Sun's Motion to Dismiss [13-cv-1028; Dkt. No. 215] is **GRANTED**, in part, with respect to 35 U.S.C. §§ 271(e)(2) and (b) of Count II, and **DENIED**, in part, with respect to 35 U.S.C. § 271(c) of Count II; and it is further

**ORDERED** that Sagent's Motion to Dismiss [13-cv-1028; Dkt. No. 219] is **GRANTED**, in part, with respect to 35 U.S.C. §§ 271(e)(2) and (b) of Count II, and **DENIED**, in part, with respect to 35 U.S.C. § 271(c) of Count II; and it is further

**ORDERED** that Apotex's Motion to Judicial Notice of the FDA response to Plaintiffs' Citizen Petition [12-cv-3967; Dkt. No. 177] is **GRANTED**.

s/ Susan D. Wigenton  
**Susan D. Wigenton, U.S.D.J.**

cc: Madeline Cox Arleo, U.S.M.J.